

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE**  
**SUBDIVISION REPORT # FPP-21-05**  
**THE CROSSINGS AT BACHELOR GRADE**  
**NOVEMBER 22, 2021**

**I. GENERAL INFORMATION**

**A. Project Description**

The request is for preliminary plat approval of a 9 lot subdivision located 2.75 miles east of Highway 35 on Bachelor Grade Road. The proposed subdivision would create 9 residential lots to be served by individual wells and septic systems. Primary access to the lot would be from an internal subdivision road via Bachelor Grade Road.

**B. Project Personnel**

**i. Applicant**

Marlin Kauffman  
420 Bachelor Grade  
Kalispell, MT 599901

**ii. Tech. Representative**

406 Engineering  
905 South Main Street  
Kalispell, MT 59901

**C. Application Review Dates**

**1. Land Use Advisory Committee/Council**

This property is not located within the jurisdiction of a Land use Advisory Committee.

**2. Planning Board**

The Flathead County Planning Board will hold a public hearing on the proposed subdivision on December 8, 2021 and make a recommendation to the Flathead County Board of Commissioners.

**3. Commission**

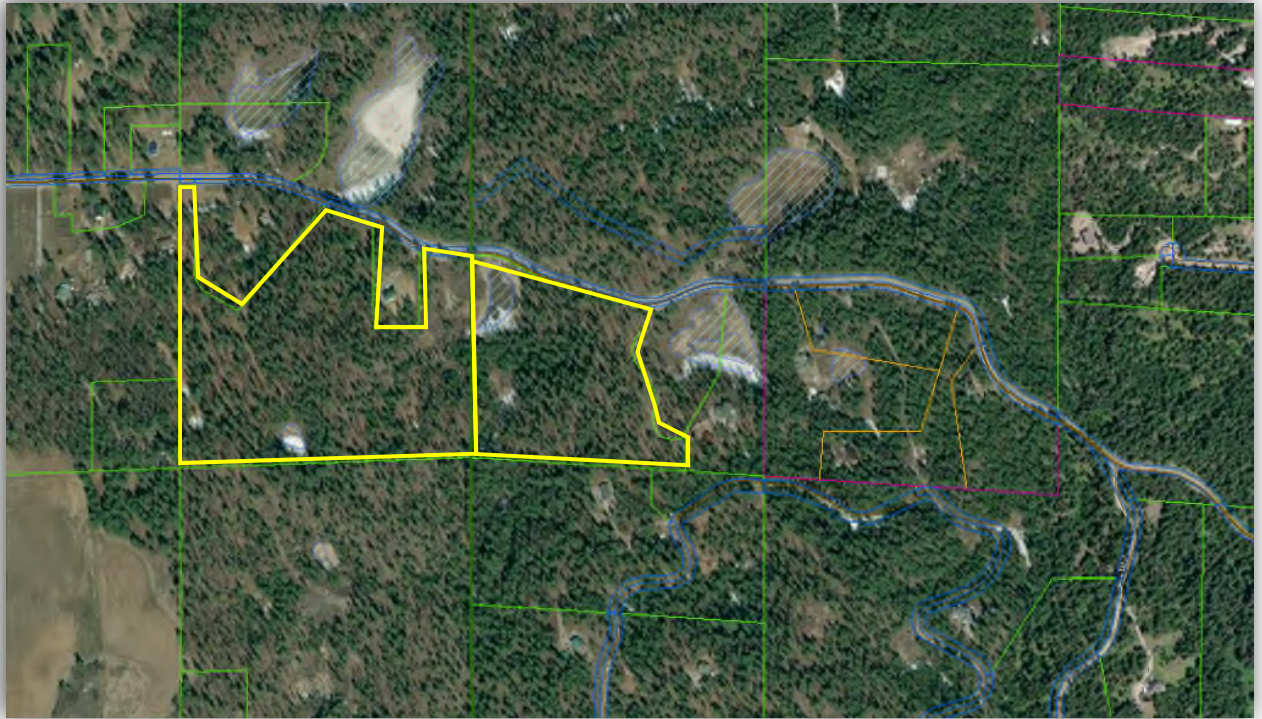
The Flathead County Board of Commissioners will review this proposal after the public hearing conducted by the Planning Board and prior to January 14, 2022 which is the end of the 60 working day statutory review period.

**II. ADMINISTRATIVE CHARACTERISTICS**

**A. Legal Description and Detailed Location of Subject Property**

The subject properties are 42.87 acres in size and is located 2.75 miles east of Highway 35 on Bachelor Grade Road near Creston. The properties can legally be described as Tract 7C & 3B in Section 11 & 12, Township 28 North, Range 20 West P.M.M Flathead County, MT.

**Figure 1:** Aerial of subject properties (outlined in yellow)



**B. Subdivision Layout Detail**

1. Total Subdivision Acreage:	42.87 acres
2. Acreage in Lots (spaces):	42.87 acres
3. Acreage in Roads:	3.00 acres
4. Total Park/Common Area/Open Space Acreage:	N/A
5. Minimum Lot Size:	3.15 acres
6. Maximum Lot Size:	6.21 acres
7. Overall Gross Lot Density:	1 lot per 4.76 acres

**C. Current Land Use and Zoning**

The subject property is currently used as residential and the entirety of the property contains trees. The property is currently not zoned.

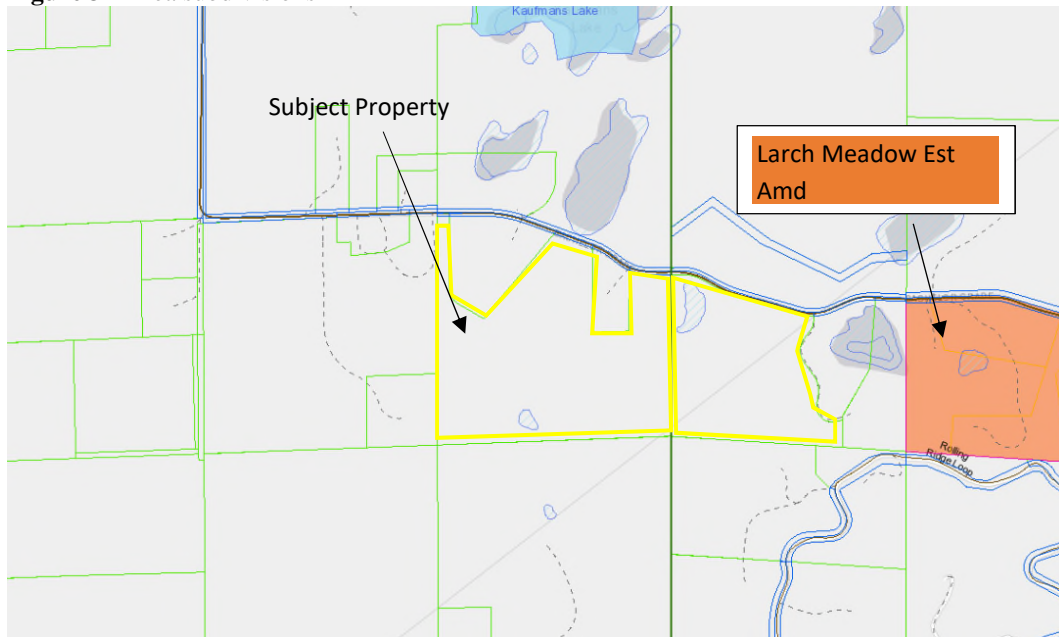
**D. Proposed Land Use**

The proposed subdivision would create 9 residential lots. The average residential lot is 4.76 acres. The applicant is also not proposing any parkland. The internal road will be located at the northwest end of the subdivision and serve all proposed lots.

**E. Previously Considered Subdivisions in Area**

Directly to the east of the subject property is Larch Meadow Est Amd subdivision. Larch Meadow Est Amd was created in 2002 and contains 3 lots approximately 5 acres in size and 1 lot approximately 8 acres in size.

**Figure 3 - Area subdivisions**



**F. Utilities and Services**

1. **Water** – Well
2. **Wastewater** – Septic
3. **Electricity** - Flathead Electric Cooperative
4. **Natural Gas** - Northwestern Energy
5. **Solid Waste** - Evergreen Disposal
6. **Telephone Service** - CenturyLink
7. **Fire District(s)** – Creston Fire District
8. **Police** - Flathead County Sheriff

**III. COMMENTS RECEIVED**

**A. Agency Comments**

Referrals were sent to the following agencies on October 18, 2021:

- Flathead County Sheriff
- Flathead County Road Department
- Flathead County Solid Waste
- Flathead City-County Health Department
- Flathead County Weeds & Parks Department
- Flathead County Address Coordinator
- Bonneville Power Administration
- Montana Fish, Wildlife and Parks
- Montana Department of Natural Resources and Conservation
- Montana Department of Environmental Quality
- Cayuse Prairie School District
- Flathead High School

- Creston Fire Department

The following is a summarized list of agency comment received as of the date of the completion of this staff report:

- Flathead County Road and Bridge Department
  - Comment: “At this point the County Road Department does not have any comments on this request.” Letter dated October 19, 2021
- Cayuse Prairie School:
  - Comment: “Our school district has no issue with this subdivision. We are bursting at the seams and are looking to expand in the future. This subdivision may push us to it sooner depending on who purchases the lots, but we are already planning for expansion and have to embrace it as a public school.” Email received November 3, 2021.
- Creston Rural Fire District
  - Comment: “This subdivision will be required to meet the standards of the Creston Fire District outlined below:
    - Roads to be built to County Standards with a road surface designed for large (heavy) fire apparatus.
    - Roadway Design to allow full access for emergency vehicles including adequate turning radius for large apparatus to eliminate the need for backing.
    - All road to have legible signage readable at night.
    - All home accesses to have legible signage readable at night
    - Subdivision to have a year-round accessible water tender recharge facility with a usable 10,000 gallons in storage with a discharge pump capable of 500 gpm with two 2.5” NH fire thread male fittings. Water supply to be designed with a “keep full” supply from a well. Recharge facility long term maintenance will be the responsibility of the developer and/or Homeowners Association. NOTE: should a phase 2 occur water supply capacity may increase.
    - Water tender recharge facility to be full and operable prior to any building construction.” Letter received November 3, 2021.
- Bonneville Power Administration (BPA)
  - Comment: “At this time, BPA does not object to this request, as the property is 5.5 miles away from the nearest BPA transmission lines or structures.” Email dated October 19, 2021.
- Flathead County Environmental Health Department
  - Comment: “The proposed development is subject to review under Title 76-4-1 Sanitation in Subdivisions, MCA). This review will address potable water supply, wastewater treatment, storm water drainage, and solid waste disposal.

The project is not located within the Kalispell Air Pollution Control District as designated in Flathead Air Pollution Control Regulations. However, fugitive dust must be controlled during development.” Letter dated October 28, 2021

- Flathead County Solid Waste District:
  - Comment: “The District requests that all new subdivisions use a private hauler to bring solid waste to the landfill. Owner hauling of solid waste from the subdivision should not be the primary method of disposal. Evergreen Disposal is the (PSC) Public Service Commission Licensed hauler in this area.” Letter dated November 2, 2021
- Flathead County Conservation District:
  - Comment: “After review of the preliminary plat request for the Crossings at Bachelor Grade Subdivision, the main concern of the Flathead Conservation District is the potential degradation of existing wetlands and riparian areas.

Impermeable surfaces and septic systems associated with development may cause increased nonpoint source pollution to infiltrate the two freshwater ponds within the project site and adjacent emergent wetland. Impacts to these areas should be mitigated by proper drainage system designs, limitation on the amount of paved surfaces allowed on each lot, and designating areas on lots 2, 5 and 6 that should not be built on or filled.” Letter received October 29.

#### **B. Public Comments**

In accordance with Section 4.0.14 Flathead County Subdivision Regulations (FCSR), adjacent property notification was mailed to neighboring property owners within 150 feet of the proposed subdivision on October 17, 2021, legal notice was published in the Daily Interlake on November 21, 2021, and notice of the proposal and public hearing was physically posted onsite on October 29, 2021.

As of the date of the completion of this staff report, no public comments have been received from the general public regarding the proposal. Any written comments received following the completion of this report will be provided to members of the Planning Board and Board of Commissioners and summarized during the public hearing.

### **IV. LOCAL GOVERNMENT REVIEW**

#### **A. Review Criteria and Staff Findings**

Findings in this portion of the report are applicable to the impacts of the proposed subdivision on the review criteria listed in Section 76-3-608(3) MCA and the review procedure outlined in Section 4.1 of the Flathead County Subdivision Regulations (FCSR), effective December 3, 2018.

##### **1. Agriculture and Agricultural Water User Facilities**

The subject property is currently residential and forested and many of the properties that neighbor the property are residential and forested.

According to the application, “This property has not been used for agricultural production. The timber has been selectively harvested but the property is not managed for agricultural production. A professional forester was not contacted for this subdivision. Some of the Kauffman family members have been loggers over the years and have used their expertise to selectively harvest the property providing for forest fire management and encouraging health growth of the existing land.”

There are no shared agricultural water works, canals, irrigation ditches, or pump houses on the property and the property is not located within an agricultural water district or area.

**Finding #1** – There would be minimal impact on agriculture and agricultural water user facilities as a result of the proposed subdivision with conditions because the property has no irrigation infrastructure on site, is not in an irrigation district, and is not party to any irrigation agreements but the property is currently used for agriculture and the neighboring properties are used for agricultural.

## 2. Local Services

### i. Water and Wastewater Services

The application indicates, “The homes will each be served by an individual well. Each home is predicted to utilize about 250 gallons per day on average for domestic service. It is unlikely that each home will have extensive landscaping or lawn, so the irrigation use for each home is estimated to be about 1350 gallons of water per day (15 gpm for 1.5 hours each day). A separate fire suppression system will be installed providing 10, 000 gallons of water storage.

“Each lot will generate an average of 250 gallons per day of effluent or 2,250 gallons total. The method of sewage disposal is sufficient and will be required to show that it meets state standards prior to filling of the final plat for the subdivision. Surrounding well logs indicate an adequate water supply.”

Water and wastewater services for the proposed subdivision would be required to be reviewed and approved as applicable by the Flathead County Environmental Health Department and the Montana Department of Environmental Quality. The impacts to existing water and wastewater services are anticipated to be minimal because the subdivision will utilize a community well and individual septic.

**Finding #2** – The subdivision will have minimal impact on water and wastewater because the subdivision will utilize individual wells and individual septic, will not connect to public services, would not be significant in regard to non-degradation and both the water and wastewater system will be required to be reviewed and permitted by the Montana Department of Environmental Quality as applicable.

### ii. Solid Waste Disposal

Comment from the Solid Waste Department stated, “The District requests that all new subdivisions use a private hauler to bring solid waste to the landfill. Owner hauling of solid waste from the subdivision should not be the primary method of disposal. Evergreen Disposal is the (PSC) Public Service Commission Licensed hauler in this area.” They typically request that all new subdivisions in Flathead County use a contract hauler to bring solid waste to the landfill and that the outlying green box sites should not be the primary method of solid waste disposal. Pursuant to Section 4.7.22 FCSR, the applicant should be required to meet the requirements of the Flathead County Solid Waste District.

**Finding # 3** – Impacts on solid waste disposal would be acceptable with standard conditions because the lots within the proposed subdivision would utilize contract haul services for solid waste management.

iii. **Roads**

Primary access points to the site exists from Bachelor Grade via Montana Highway 35. All lots will be accessed from two paved internal subdivision road with 22-foot wide driving surfaces within a 60-foot right of way. A road approach permit for access from Bachelor Grade will be required by the Flathead County Road and Bridge Department. The applicant is additionally proposing a variance request for paving. Instead of using hot mix asphalt they are proposing to utilize asphalt millings.

The proposal would create 8 additional residential lots and would therefore add approximately 80 average daily trips (ADT) to the road network. Bachelor Grade had approximately 731 ADT in 2014, the last year traffic counts were made available, and the addition of 80 trips would increase traffic by 10.9%. It would appear that Bachelor Grade could accommodate the additional vehicle trips.

**Finding #4** – Impacts on area roads would appear to be acceptable as all internal subdivision roads and primary access roads will be paved and constructed to Flathead County standards and Bachelor Grade can handle the additional 90 ADT.

iv. **Schools**

According to the 2019 Census Data there are 46,963 housing units in Flathead County. The Flathead County Statistical Report of Schools 2019 states there are 16,053 students enrolled in public, private and home schools. The total students (16,053) divided by the total households (37,622) equals 0.42 students per household. Therefore 8 residential lots could potentially generate approximately 3 students in the K-12 schools. This development is within the boundaries of Cayuse Prairie School District and the Flathead High School District. According to population statistics of Flathead County in 2019 which shows a 1% increase in enrollment over the past 10 years. While the Cayuse Prairie and Flathead School Districts were contacted regarding this proposed subdivision, it does not appear that the school system will be overwhelmed by the 3 additional students as the Cayuse Prairie School District has maintained steady enrollment in recent years. It is anticipated that additional students may be served without introducing significant impacts to the school district. Comment from the school states, “Our school district has no issue with this subdivision. We are bursting at the seams and are looking to expand in the future. This subdivision may push us to it sooner depending on who purchases the lots, but we are already planning for expansion and have to embrace it as a public school.”

v. **Mail Delivery**

The applicant states the mail boxes will be centralized. The developer will be required to submit plans for review and written approval from the local postmaster as a condition of preliminary plat approval.

vi. **Recreation**

Pursuant to Section 4.7.24 FCSR, parkland dedication is required for residential subdivision lots created that are less than five gross acres in size. Five residential lots are between 3.15 and 4.64 acres in size which requires an amount of 2.5% of the combined gross area of the lots be dedicated as parkland. Based on the

calculations .47 acres of parkland would be required or cash-in-lieu. The remaining three lots are over five acres in size. The developer proposes to provide cash-in-lieu of creating an on-site park.

Section 4.7.24(f & h) allows cash-in-lieu of parkland dedication and, *“shall be the responsibility of the subdivider to provide satisfactory evidence of the parkland fair market value of the unimproved land. The subdivider shall provide a current appraisal from a Certified General Appraiser (CGA), dated no more than six months prior to final plat application submittal, to set the baseline value of the parkland cash donation. The appraisal fee shall be the responsibility of the subdivider. The Planning and Zoning Office shall determine the actual parkland donation based on the baseline appraisal at that time.”*

With lots over 3 acres in size there is plenty of room for recreation on the property owners own land. The proposed subdivision is fairly close to lake access for activities such as fishing, boating, swimming, ice-skating, ice fishing and additionally cross-country skiing could occur on these properties

**Finding #5** – Impacts on local services with regard to schools, recreation and mail delivery would appear to be acceptable as the proposed subdivision would add approximately 3 students to the local school district and no comments of concern were received from the Cayuse Prairie School District or Flathead School District, the applicant is proposing centralized mailboxes, cash-in-lieu or parkland dedication and which will be conditioned on the permit and there are plenty of recreational opportunities.

### 3. **Public Health And Safety**

#### i. **Storm Water Drainage**

Storm water drainage will be managed on-site in from roads to grassy ditches and swales with gently graded side-slopes to facilitate maintenance by the adjacent homeowners and to provide adequate capacity for short-term storage. The run-off from homes will be incorporate on the lots. The application states, “The soils are gravelly to stony silt loam and sandy loams providing excellent infiltration of storm water.”

The proposed development is subject to review under the Sanitation in Subdivisions Act (MCA Title 76-4-1). The review will address potable water supply, wastewater treatment, storm water drainage, and solid waste disposal. The subdivision will also need to be reviewed and approved by Montana Department of Environmental Quality for stormwater and the Certificate of Subdivision Approval will be required at the time of final plat or will need a letter indicating a new COSA is not required.

**Finding #6** – Impacts from storm water run-off will be acceptable because the minimum lot size is 3.15 acres and capable of handling run-off and swales and ditches will be located alongside roads to allow for storm water absorption.

#### ii. **Fire/Emergency Medical Services**

The site is in the Creston Rural Fire District and the Kalispell Regional Hospital is approximately 10 miles from the proposed subdivision. Although the vicinity of the subject property can be described as forested, the Creston Rural Fire Department is



located approximately 3 miles from the proposed subdivision along Lake Blaine Road. According to the comments from the Creston Fire Department, “Roads to be built to County Standards with a road surface designed for large (heavy) fire apparatus. Roadway Design to allow full access for emergency vehicles including adequate turning radius for large apparatus to eliminate the need for backing .All road to have legible signage readable at night. All home accesses to have legible signage readable at night. Subdivision to have a year-round accessible water tender recharge facility with a usable 10,000 gallons in storage with a discharge pump capable of 500 gpm with two 2.5” NH fire thread male fittings. Water supply to be designed with a “keep full” supply from a well. Recharge facility long term maintenance will be the responsibility of the developer and/or Homeowners Association. NOTE: should a phase 2 occur water supply capacity may increase. Water tender recharge facility to be full and operable prior to any building construction.”

**Finding #7** – Impacts on fire and medical services would be minimal with standard conditions because the lots within the proposed subdivision would be served within an acceptable response time by the Creston Fire Department in the event of an emergency, would be required to meet the requirements of the fire district and although the property is located in a Wildland Urban Interface in the Fire District Priority Area the response times would be minimal in the event of an emergency.

iii. **Police Services**

The proposed subdivision is located in an urban area of Flathead County and will be served by the Flathead County Sheriff’s Department. The combination of existing staff levels, shift rotations, size of the county, the dispersed nature of the population, and the property’s distance from the Flathead County Sheriff’s Office in Kalispell may lead to delayed response times in the event of an emergency.

**Finding #8** – Impacts on police services would be minimal with standard conditions because the lots within the proposed subdivision would be served within an acceptable response time by the Flathead County Sheriff’s Department in the event of an emergency.

iv. **Impact of Noise**

While noise and vibration will likely result from construction of the roads and houses these impacts will be limited in duration and should not negatively impact the surrounding area. No noise beyond what is typical for a residential area is anticipated as a result of the proposed subdivision. The proposed residential use is not anticipated to generate noise impacting area residents or wildlife.

v. **Air Quality**

Primary access to the subdivision occurs via Bachelor Grade which is a County maintained, paved roadway and all internal lots will be accessed via existing access roads. The applicant has submitted a “Dust Control Plan” compliant with Section 4.7.14 FCSR. A note should be required to be placed on the face of the final plat that requires the owners of all lots abide by the guidelines set forth in the plan during and after site construction and development activities.

**Finding #9** - Adverse impacts to air quality and noise are not anticipated with standard conditions as all roads accessing the subdivision already exist, internal subdivision roads will be paved, a Dust Abatement Plan was provided to mitigate potential issues of dust during construction and impacts of noise are not expected to extend beyond property lines.

vi. **High Voltage Electric Lines/High Pressure Gas Lines**

There are no high pressure gas lines or high voltage electrical lines on the subject property.

vii. **Airport Influence Areas**

The subject property is not within an airport influence area.

**Finding #10** – The proposal does not appear to have an impact on high voltage electric lines, high pressure gas lines or an airport influence area because the property is not located near high voltage electric lines, high pressure gas lines or airport influence area.

4. **Natural Environment**

i. **Soils**

According to NRCS soils data, the soils on the property are comprised of three soils. The soils are classified as Krause gravelly loam (Kzo), Selle fine sandy loam (Sc) and Walits and Krause stony loams (Wn) According to Upper Flathead Valley Soils Survey, is considered well drained and not considered prime farmland.

ii. **Geologic/Avalanche Hazards**

The subject property is relatively flat, with some elevation change. There appears to be no evidence of unstable soils, rock outcroppings, falls or slides indicating significant geologic hazards is present on the subject property. The proposed subdivision is not considered prone to avalanche hazards.

**Finding #11** – No impacts from soils and geological and avalanche hazards are anticipated because the property is relatively flat and there is no evidence of unstable soils, rock outcroppings, falls or slides indicating significant geologic hazards on the property.

iii. **Flora**

A search conducted by the Montana Natural Heritage Program identified this general area of the County does not contain any species of concern. The application states, “Most of the property is covered in coniferous forest as shown in the aerial photograph. The property is mostly Douglas fir and western larch. The property likely contains some spotted knapweed (*centaurea maculosa*), which is a common noxious weed in Montana but by because of the large property it does not have extensive weed infestations.”

The prevention of noxious weeds is particularly important with regard to construction and development. As such, and pursuant to Section 4.7.25 FCSR, an approved weed control management plan, applicable to all lots, will be required as a condition of final plat approval. The proposed subdivision is not anticipated to negatively impact flora.

iv. **Riparian/Wetland Areas**

The subject property does contain some surface waters, or riparian areas. There is evidence of mapped wetlands located on the property to the north and one to the south of the subject property. The subject property is not located within the 100-year floodplain. Prior to approval of final plat, no build zones on the wetlands will be conditioned on preliminary plat approval.

It therefore appears that the riparian areas onsite will be preserved and not impacted by the proposed development.

**Finding #12** – Minimal impacts to the riparian areas are anticipated as only a small portion of the property contains riparian areas, these areas will be protected by a “No Build Zone” encompassing the wetlands, there are no species of concern and a weed management plan shall be approved by the Flathead County Weed Board prior to final plat approval.

v. **Floodplain**

According to FEMA FIRM Panels 30029C1835J, the subject property is designated as unshaded Zone X with no Special Flood Hazard Area. Impact to floodplain is anticipated to be minimal because the property is located outside of the 1% annual chance flood area.

**Finding #13** – The proposal would not introduce adverse impacts to public health and safety in regard to flood risk because the subject property does not contain any land located within the 100 year floodplain.

5. **Wildlife and Wildlife Habitat**

A search conducted using the Montana Natural Heritage Program identified this general area of the County may be frequented by 7 species of concern including the wolverine, Canada lynx, fisher, grizzly bear, great blue heron, great gray owl and bald eagle. The Fisher habitats are located on the outer boundaries of mountain ranges, which is not present on-site and located approximately 2 miles from the base of the mountains. The habitat for the mammals and birds of concerns is generally conifer and riparian meadows.

No comments were received from Montana Fish, Wildlife and Parks (FWP) regarding this proposed subdivision. There are additional suggestions for ways to minimize wildlife/human conflicts, including conflicts with bears, in FWP’s Fish and Wildlife Recommendations for Subdivision Development in Montana. Because of the potential interaction between residents and dangerous wildlife, it is suggested that the CC&Rs be amended to incorporate MT Fish, Wildlife and Parks Wildlife Recommendations for Subdivision Development.

**Finding #14** – The proposed subdivision may impact local wildlife and wildlife habitat as 7 Species of Concern are associated with the area, including grizzly and black bears, however the amount of surrounding residential development and amended CC&Rs could minimize impacts.

6. **Historical Features**

The Environmental Assessment indicates there are no known historic, archeological, or cultural sites on the subject property.

**Finding #15** – The proposed subdivision will not adversely impact historical features because there are no known historic, archeological, or cultural sites on the subject property.

**B. Compliance with Survey Requirements of 76-3-401 through 76-3-406 M.C.A.**

**Finding #16** – The preliminary plat would conform to all provisions of the Montana Subdivision and Platting Act if it contains all elements required to meet state survey requirements, which would be determined when it is reviewed by the Flathead County Examining Land Surveyor prior to final plat approval.

**C. Compliance with the Flathead County Subdivision Regulations and Review Procedure**

**1. Requested Variances**

The application includes a request for a variance from Section 4.7.17(a) of the Flathead County Subdivision Regulations which states, *“All internal subdivision roads shall be paved, with the exception of secondary emergency roads. Internal roads within ‘recreational vehicle parks’ may or may not be required to be paved, dependent upon whether or not the preliminary plat review identifies potential adverse impacts from dust can be adequately mitigated through the imposition of conditions aimed at minimizing or eliminating impacts from dust;”*

Subject to compliance with FCSR Section 4.0.11, the Commission shall not approve a variance unless it finds that all of the following are met:

**i. The variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties;**

The applicant states, “The roadway is still intended to be paved. But, it will not be paved with hot mix asphalt. Rather, it will be paved with asphalt millings, which is the same method used for paving Bachelor Grade by the County road department. The end result will be a similar product to hot mix asphalt and therefore not be detrimental to the public health, safety or general welfare. Most people cannot distinguish between an asphalt millings roadway versus a hot mix asphalt paving product.”

There would likely be minimal impacts to public health, safety, and general welfare as a result because the accesses already exist, the asphalt millings appear similar to concrete, allows the paving that favors dust abatement and would have a low traffic volume in the residential neighborhood.

**ii. Because of the physical surroundings, shape, or topographical conditions of the property involved, strict compliance with the regulations will impose an undue hardship on the owner. Undue hardship does not include personal or financial hardship, or any hardship that is self-imposed;**

The hardship according to the applicant is, “The developer isn’t intending NOT comply with the regulations so it is somewhat unclear whether a variance is even needed. The regulations say paving is required, but paving is not defined as hot mix asphalt. However, to be transparent about the developer’s intent, which is to pave the roads with asphalt millings, a variance is being sought to document the developer’s intent. Paving with asphalt millings has already been done by the

County on other roadways including Bachelor Grade, which has the same appearance is a hot mix asphalt paving job.”

The property is located in a rural residential community on a paved public road. The road would accommodate local traffic, which contributes to the low traffic volumes on the road.

**iii. The variance will not cause a substantial increase in public costs, now or in the future;**

The proposed variance is not likely to increase public costs now or in the future, because the developer will be individually responsible for the required paving. The application states, “The roads proposed for paving with asphalt millings are private owned and maintained. Maintenance costs of the road- whether paved with hot mix or asphalt millings – will be borne by the subdivision lot owner. Therefore, the variance does not affect any public costs now or in the future.”

**iv. The variance will not place the subdivision in nonconformance with any adopted growth policy, neighborhood plan or zoning regulations;**

The proposed subdivision complies with the County Growth Policy, it is not in a Neighborhood Plan and is not zoned. The Growth Policy discusses transportation in Chapter 6 and specifically addresses road improvement in policies 24.2 and 24.3. Those policies state, “*P.24.2 Require County road improvements to mitigate impacts directly attributable to a subdivision or development as a necessary component of that development to preserve the carrying capacity of the roadway.*

*“P.24.3 Require development projects to design road systems that complement planned land uses and maintain mobility on arterial roads and highways.”*

The other criteria for the variance will determine if the development will negatively impact the roadway if no improvements are completed on the private road.

**v. The variance is consistent with the surrounding community character of the area.**

According to the applicant, “Approval of this variance will maintain this subdivision to be consistent with surrounding community character. Bachelor Grade which is the primary access road to the subdivision, is already paved with asphalt millings versus hot mix asphalt.”

The variance is consistent with the surrounding community character of the area because it is located in a rural residential area and the proposed subdivision would only add 80 additional vehicle trips to the road system. Many of the roads in the area that serve a similar number of lots and homes are similarly paved.

- 2. Finding #17** –The variance requested by the applicant generally meets the variance criteria because there would be minimal impacts to public health, safety, and general welfare, the property is located in a suburban neighborhood setting, are privately maintained and it would be consistent with the surrounding community character.

### **Flathead County Subdivision Review Procedure**

- i. Pre-application Conference Date**  
May 11, 2021
- ii. Application Deadline Date (6 months from pre-application)**  
November 11, 2021
- iii. Application Submittal Date**  
September 20, 2021
- iv. Completeness Date**  
September 24, 2021
- v. Sufficiency Date**  
October 18, 2021
- vi. Agency Referral Requests Mailing Date**  
October 18, 2021
- vii. Adjacent Property Notification Mailing Date**  
November 17, 2021
- viii. Legal Notice Publication Date**  
November 11, 2021
- ix. On-site Posting of Public Hearing Date**  
October 29, 2021

**Finding #18** – The proposal has been reviewed as a major subdivision in accordance with statutory criteria and standards outlined in Section 4.4 of the Flathead County Subdivision Regulations effective December 3, 2018.

#### **D. Provision of Easements for the Location and Installation of Planned Utilities**

**Finding #19** – The preliminary plat identifies adequate easements for utilities to serve the subdivision. All other easements associated with this subdivision and the subdivided property shall be clearly located on the Final Plat to satisfy applicable requirements of the Montana Subdivision and Platting Act and the Flathead County Subdivision Regulations.

#### **E. Provision of Legal and Physical Access to Each Parcel**

**Finding #20** – Bachelor Grade would provide legal and physical access to the subdivision with an approved approach permit from the Flathead County Road and Bridge Department and all the lots will have legal and physical access via the proposed internal subdivision road.

#### **F. Review of Applicable Plans**

76-1-605(2)(b) M.C.A. states that *A governing body may not withhold, deny, or impose conditions on any land use approval or other authority to act based solely on compliance with a growth policy adopted pursuant to this chapter.* Furthermore, 76-3-608(3) M.C.A. does not contain compliance with the growth policy as a primary criteria by which an individual subdivision proposal must undergo local government review or on which findings of fact are to be based. Review of general conformance with applicable plans is provided as an acknowledgement and consideration of the guidance offered by the information contained in the document(s).

##### **1. Neighborhood Plan**

The subject property is not located within a neighborhood plan area.

## **2. Flathead County Growth Policy**

The Flathead County Growth Policy is a general policy document that meets the requirements of 76-1-601, MCA and was updated on October 12, 2012. Regulations adopted by Flathead County used in the review of subdivisions are an implementation of the goals and policies established in the Growth Policy. This proposal conforms to the regulations used in the review of subdivision in Flathead County and is therefore in general compliance with the Flathead County Growth Policy.

## **G. Compliance with Local Zoning**

The proposed subdivision is located in an area of Flathead County that is presently not zoned. Therefore compliance with local zoning is not applicable nor required as part of this subdivision application and review.

**Finding #21** – The proposal generally complies with the Flathead County Growth Policy and the zoning regulations because the property is not zoned and the proposal conforms to the regulations used in the review of subdivision in Flathead County.

## **V. SUMMARY OF FINDINGS**

1. There would be minimal impact on agriculture and agricultural water user facilities as a result of the proposed subdivision with conditions because the property has no irrigation infrastructure on site, is not in an irrigation district, and is not party to any irrigation agreements but the property is currently used for agriculture and the neighboring properties are used for agricultural. [Condition 21]
2. The subdivision will have minimal impact on water and wastewater because the subdivision will utilize individual wells and individual septic, will not connect to public services, would not be significant in regard to non-degradation and both the water and wastewater system will be required to be reviewed and permitted by the Montana Department of Environmental Quality as applicable. [Condition 7]
3. Impacts on solid waste disposal would be acceptable with standard conditions because the lots within the proposed subdivision would utilize contract haul services for solid waste management. [Conditions 9 & 12]
4. Impacts on area roads would appear to be acceptable as all internal subdivision roads and primary access roads will be paved and constructed to Flathead County standards and Bachelor Grade can handle the additional 90 ADT. [Conditions 4, 5 & 20]
5. Impacts on local services with regard to schools, recreation and mail delivery would appear to be acceptable as the proposed subdivision would add approximately 3 students to the local school district and no comments of concern were received from the Creston School District or Flathead School District, the applicant is proposing centralized mailboxes, no parkland dedication is required and a bike and pedestrian easement is shown on the preliminary plat. [Conditions 8 & 18]
6. Impacts from storm water run-off will be acceptable because the minimum lot size is 3.15 acres and capable of handling run-off and swales and ditches will be located alongside roads to allow for storm water absorption.[Condition 7]
7. Impacts on fire and medical services would be minimal with standard conditions because the lots within the proposed subdivision would be served within an acceptable response

time by the Creston Fire Department in the event of an emergency, would be required to meet the requirements of the fire district and although the property is located in a Wildland Urban Interface in the Fire District Priority Area the response times would be minimal in the event of an emergency. [Condition 2]

8. Impacts on police services would be minimal with standard conditions because the lots within the proposed subdivision would be served within an acceptable response time by the Flathead County Sheriff's Department in the event of an emergency.
9. Adverse impacts to air quality and noise are not anticipated with standard conditions as all roads accessing the subdivision are already paved, internal subdivision roads will be paved, a Dust Abatement Plan was provided to mitigate potential issues of dust during construction and impacts of noise are not expected to extend beyond property lines. [Conditions 10 & 12iii]
10. The proposal does not appear to have an impact on high voltage electric lines, high pressure gas lines or an airport influence area because the property is not located near high voltage electric lines, high pressure gas lines or airport influence area.
11. No impacts from soils and geological and avalanche hazards are anticipated because the property is relatively flat and there is no evidence of unstable soils, rock outcroppings, falls or slides indicating significant geologic hazards on the property.
12. Minimal impacts to the riparian areas are anticipated as only a small portion of the property contains riparian areas, these areas will be protected by a "No Build Zone" encompassing the wetlands, there are no species of concern and a weed management plan shall be approved by the Flathead County Weed Board prior to final plat approval. [Condition 20]
13. The proposal would not introduce adverse impacts to public health and safety in regard to flood risk because the subject property does not contain any land located within the 100 year floodplain.
14. The proposed subdivision may impact local wildlife and wildlife habitat as 7 Species of Concern are associated with the area, including grizzly and black bears, however the amount of surrounding residential development and amended CC&Rs could minimize impacts. [Condition 18]
15. The proposed subdivision will not adversely impact historical features because there are no known known historic, archeological, or cultural sites on the subject property.
16. The preliminary plat would conform to all provisions of the Montana Subdivision and Platting Act if it contains all elements required to meet state survey requirements, which would be determined when it is reviewed by the Flathead County Examining Land Surveyor prior to final plat approval. [Condition 13]
17. The variance requested by the applicant generally meets the variance criteria because there would be minimal impacts to public health, safety, and general welfare, the property is located in a suburban neighborhood setting, are privately maintained and it would be consistent with the surrounding community character. [Condition 20]
18. The proposal has been reviewed as a major subdivision in accordance with statutory criteria and standards outlined in Section 4.4 of the Flathead County Subdivision Regulations effective December 1, 2014.



19. The preliminary plat identifies adequate easements for utilities to serve the subdivision. All other easements associated with this subdivision and the subdivided property shall be clearly located on the Final Plat to satisfy applicable requirements of the Montana Subdivision and Platting Act and the Flathead County Subdivision Regulations.
20. Bachelor Grade would provide legal and physical access to the subdivision with an approved approach permit from the Flathead County Road and Bridge Department and all the lots will have legal and physical access via the proposed internal subdivision road.  
[Condition 4]
21. The proposal generally complies with the Flathead County Growth Policy and the zoning regulations because the property is not zoned and the proposal conforms to the regulations used in the review of subdivision in Flathead County.

## VI. CONCLUSION

In accordance with the provisions of Section 4.5.7 of the Flathead County Subdivision Regulations, a review and evaluation of the preliminary plat application has been completed by the staff of the Flathead County Planning and Zoning Office. The proposed subdivision appears to generally comply with the subdivision review criteria, pursuant to the Findings of Fact. Should the Planning Board forward a recommendation of approval of this subdivision to the Flathead County Commissioners, Findings of Fact and Conditions of Approval attached should be adopted.

## VII. CONDITIONS OF APPROVAL

### A. Standard Conditions

1. The developer shall receive physical addresses in accordance with Flathead County Resolution #1626. All road names shall appear on the final plat. Street addressing shall be assigned by Flathead County. [Section 4.7.16(g)(iv) and 4.7.26(c) Flathead County Subdivision Regulations (FCSR)]
2. The developer shall comply with reasonable fire suppression and access requirements of the Creston Fire District. A letter from the fire chief stating that the plat meets the requirements of the Fire District (or Department) shall be submitted with the application for Final Plat. [Section 4.7.26(b) FCSR and Finding of Fact (FOF) 7]
3. All areas disturbed during development of the subdivision shall be re-vegetated in accordance with an approved Weed Control Plan and a letter from the County Weed Supervisor stating that the Weed Control Plan has been approved shall be submitted with the final plat. [Section 4.7.25 FCSR and FOF 2]
4. With the application for final plat, the developer shall provide a compliant Road Users' Agreement or CC&R document which requires each property owner to bear his or her pro-rata share for maintenance of the roads within the subdivision **and for any integral access roads lying outside the subdivision**. [Section 4.7.15(e), FCSR and FOF 4]
5. All utilities shall be extended underground to abut and be available to each lot, in accordance with a plan approved by the applicable utility providers. [Section 4.7.23 FCSR]

6. The proposed water, wastewater treatment, and stormwater drainage systems for the subdivision shall be reviewed, approved, and permitted as applicable by the Flathead City-County Health Department, and approved by the Montana Department of Environmental Quality. [Sections 4.7.20 and 4.7.21 FCSR and FOFs 2 & 6]
7. The mail delivery site shall be provided with the design and location approved by the local postmaster of USPS. A letter from the postmaster stating that the developer has met their requirements shall be included with the application for final plat. [Section 4.7.28 FCSR and FOF 5]
8. In order to assure the provisions for collection and disposal of solid waste, the developer shall submit a letter from the applicable solid waste contract hauler stating that the hauler is able to provide service to the proposed subdivision. [Section 4.7.22 FCSR and FOF 3]
9. The owners shall abide by the guidelines set forth in the approved Dust and Air Pollution Control and Mitigation Plan during and after site construction and development activities. [Section 4.7.14 FCSR and FOF 9]
10. All road names shall be approved by Flathead County and clearly identified and house numbers will be clearly visible from the road, either at the driveway entrance or on the house. House numbers shall be at least four inches in length per number. [Section 4.7.26(c) FCSR]
11. The following statements shall be placed on the face of the final plat applicable to all lots:
  - i. All road names shall be assigned by the Flathead County Address Coordinator and clearly identified and house numbers will be clearly visible from the road, either at the driveway entrance or on the house. House numbers shall be at least four inches in length per number. [Section 4.7.26(c) FCSR]
  - ii. All utilities shall be placed underground. [Section 4.7.23 FCSR]
  - iii. The owners shall abide by the guidelines set forth in the approved Dust and Air Pollution Control and Mitigation Plan during and after site construction and development activities. [Section 4.7.14 FCSR and FOF 9]
  - iv. Solid Waste removal for all lots shall be provided by a contracted solid waste hauler. [Section 4.7.22, FCSR and FOF 3]
  - v. Lot owners are bound by the Weed Control Plan to which the developer and the Flathead County Weed Department agreed. [4.7.25 FCSR and FOF 12]
12. The final plat shall comply with state surveying requirements. [Section 76-3-608(b)(i) M.C.A.]
13. Where the aggregate total disturbed area of any infrastructure construction in the proposed subdivision as defined in A.R.M. 17.30.1102(28) is equal to, or greater than one acre; or where when combined with subsequent construction of structures such disturbed area will be equal to, or greater than one acre, a Montana State Department of Environmental Quality (DEQ) General Permit for Stormwater Discharges Associated with Construction Activity (General Permit) shall be obtained prior to any

site disturbance or construction and a copy of the DEQ confirmation letter shall be provided to the Flathead County Planning & Zoning office prior to final plat approval. [17.30.1115 Administrative Rules of Montana (A.R.M.) and FOF 16]

14. All required improvements shall be in place or a Subdivision Improvement Agreement shall be provided by the subdivider prior to final approval by the County Commissioners. [Section 4.0.16 FCSR]
15. The final plat shall be in substantial compliance with the plat and plans submitted for preliminary plat review, except as modified by these conditions. [Section 4.1.13 FCSR and FOF 17 & 18]
16. Preliminary plat approval is valid for three years. The final plat shall be filed prior to the expiration of the three years. Extension requests to the preliminary plat approval shall be made in accordance with the applicable regulations and following associated timeline(s). [Section 4.1.11 FCSR]

#### **B. Project-Specific Conditions**

17. The proposed CC&Rs shall be amended to comply with Montana Fish, Wildlife and Parks subdivision development recommendations for human/bear conflict [FOF 14].
18. The applicant shall show proof of a completed approach permit from the Flathead County Road and Bridge Department for the approach of the internal subdivision road indicating the approach has been built and received final inspection and final approval. [Section 4.7.16, FCSR and FOF 4]
19. The following statements shall be placed on the face of the final plat applicable to all lots:
  - vi. An agricultural or farming operation, a place, an establishment, or a facility or any of its appurtenances or the operation of those things is not or does not become a public or private nuisance because of its normal operation as a result of changed residential or commercial conditions in or around its locality if the agricultural or farming operation, place, establishment, or facility has been in operation longer than the complaining resident has been in possession or commercial establishment has been in operation. [FOF 1]
20. The boundaries of the wetland shown on the preliminary plat shall be labeled as a 'No Build Zone' on the face of the final plat. [Section 4.7.10 FCSR] [FOF 12]
22. Unless a variance is granted, design and construction of all internal subdivision roads shall be certified by a licensed engineer and constructed and paved as proposed in accordance with the *Flathead County Minimum Standards for Design and Construction*, as applicable. [Sections 4.7.16, 4.7.17 FCSR and FOF 4]
23. Either cash-in-lieu or a total of 0.47 gross acres (minimum) of land shall be dedicated as parkland and maintained by a Homeowner's Association in accordance with the provisions of Section 4.7.24(d)(ii) FCSR and shall be designated on the face of the final plat. [FOF 5]